

Office of the Secretary, Interior

§ 4.452-2

§ 4.451 Government contests.

§ 4.451-1 How initiated.

The Government may initiate contests for any cause affecting the legality or validity of any entry or settlement or mining claim.

§ 4.451-2 Proceedings in Government contests.

The proceedings in Government contests shall be governed by the rules relating to proceedings in private contests with the following exceptions:

(a) No corroboration shall be required of a Government complaint and the complaint need not be under oath.

(b) A Government contest complaint will not be insufficient and subject to dismissal for failure to name all parties interested, or for failure to serve every party who has been named.

(c) No filing fee or deposit toward reporter's fee shall be required of the Government.

(d) Any action required of the contestant may be taken by any authorized Government employee.

(e) The statements required by § 4.450-4(a) (5) and (6) need not be included in the complaint.

(f) No posting of notice of publication on the land in issue shall be required of the Government.

(g) Where service is by publication, the affidavits required by § 4.450-5(b)(1) need not be filed. The contestant shall file with the manager a statement of diligent search which shall state that the contestee could not be located after diligent search and inquiry, the last known address of the contestee and the detail of efforts and inquiries made to locate the party sought to be served. The diligent search shall be concluded not more than 15 days prior to the filing of the statement.

(h) In lieu of the requirements of § 4.450-5(b)(3)(ii) the contestant shall, as part of the diligent search before the publication or within 15 days after the first publication send a copy of the complaint by certified mail, return receipt requested, to the contestee at the last address of record. The return receipts shall be filed in the office in which the contest is pending.

(i) The affidavit required by § 4.450-5(c)(3) need not be filed.

(j) The provisions of paragraph (e) of § 4.450-4(e) shall be inapplicable.

§ 4.452 Proceedings before the administrative law judge.

§ 4.452-1 Prehearing conferences.

(a) The administrative law judge may in his discretion, on his own motion or on motion of one of the parties, or of the Bureau, direct the parties or their representatives to appear at a specified time and place for a prehearing conference to consider:

(1) The simplification of the issues,

(2) The necessity of amendments to the pleadings,

(3) The possibility of obtaining stipulations, admissions of facts and agreements to the introduction of documents,

(4) The limitation of the number of expert witnesses, and

(5) Such other matters as may aid in the disposition of the proceedings.

(b) The administrative law judge shall make an order which recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admission or agreements. Such order shall control the subsequent course of the proceedings before the administrative law judge unless modified for good cause, by subsequent order.

§ 4.452-2 Notice of hearing.

The administrative law judge shall fix a place and date for the hearing and notify all parties and the Bureau at least 30 days in advance of the date set, unless the parties and the Bureau request or consent to an earlier date. The notice shall include (a) the time, place, and nature of the hearing, (b) the legal authority and jurisdiction under which the hearing is to be held, and (c) the matters of fact and law asserted. All hearings held in connection with land selection appeals arising under the Alaska Native Claims Settlement Act, as amended, shall be conducted within the state of Alaska, unless the parties agree otherwise.

[47 FR 26392, June 18, 1982]